

Translation

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference STBR043157	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/002680	International filing date (day/month/year) 09 septembre 2003 (09.09.2003)	Priority date (day/month/year) 09 septembre 2002 (09.09.2002)
International Patent Classification (IPC) or national classification and IPC A43B 13/14, 13/18, 13/12		
Applicant THE ZEBRA COMPANY		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.  <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <u>3</u> sheets.
3. This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 24 février 2004 (24.02.2004)	Date of completion of this report 07 December 2004 (07.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/002680

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-10 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1-19 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 21 April 2004 (21.04.2004)
- ☒ the drawings:  
pages \_\_\_\_\_ 1/4-4/4 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCOR 03/02680

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	5-14	YES
	Claims	1-4, 15-19	NO
Inventive step (IS)	Claims	14	YES
	Claims	1-13, 15-19	NO
Industrial applicability (IA)	Claims	1-19	YES
	Claims		NO

**2. Citations and explanations**

Reference is made to the following documents:

D1: US-A-5 572 805 (BROWN ROGER J ET AL) 12 November 1996  
(1996-11-12)

D2: GB-A-2 256 784 (UHL SPORTARTIKEL KARL) 23 December 1992  
(1992-12-23)

The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claims 1 and 15 does not comply with the criterion of novelty as defined by PCT Article 33(2).

**CLAIM 1**

D1 describes (the references between parentheses apply to said document): a shoe comprising a sole the outer surface of which contacts the ground and the inner surface of which contacts a user's foot (figures 111-117); said sole comprises a dynamic member (19) extending along and to either side of a longitudinal axis of the sole (figure 111); wherein the dynamic assistance member (19) is located in the sole so that it extends longitudinally under an area corresponding to the arch of the foot (figure 111), and includes at least two elastically deformable elements or portions (29) (D1 describes a "hard material" but not an inelastic material and portions (29) are indeed flexible), correlating with two

lateral ground contact points located, respectively, either side of the longitudinal axis of the shoe (figures 106 and 111 to 117), for storing and returning energy when said sole is subjected to lateral stresses, whereby a dynamic counter-reaction is obtained between said two deformable elements when the sole is subjected to stress (these are not technical features, but a functional definition covering a multiplicity of structures, including the structure described in D1).

**CLAIM 15**

D1 also describes a shoe with a sole, wherein said sole comprises a dynamic member for assisting sideways movement of the foot in any transverse direction; said member is placed at least beneath the forefoot (figure 111) and extends in a direction perpendicular to the plane of the sole (figure 116) between the outer surface and the inner surface of the sole; said member includes at least two elastically deformable elements (29) (D1 describes a "hard material" but not an inelastic material and portions (29) are indeed flexible) placed in the front portion of the sole on either side of the longitudinal direction (figure 111) and aligned relative to the transverse direction, each element being elastically deformable in a direction perpendicular to the plane of the shoe (figures 106 and 111 to 117).

In the light of D1 and D2 and the corresponding passages cited in the international search report, dependent claims 2 to 13 and 16 to 19 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of novelty (claims 2 to 4 and 16 to 19) and/or inventive step (claims 5 to 13).

The combination of features of claim 14 is not found in the prior art and cannot be derived in an obvious manner therefrom.